



General Assembly

Amendment

January Session, 2013

LCO No. **5558**

HB0647205558HD0

Offered by:

REP. REED, 102nd Dist.

SEN. DUFF, 25th Dist.

REP. HOYDICK, 120th Dist.

SEN. CHAPIN, 30th Dist.

To: Subst. House Bill No. **6472**

File No. 298

Cal. No. 208

"AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 16a-40g of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) As used in this section:

6 (1) "Energy improvements" means (A) participation in a district
7 heating and cooling system by qualifying commercial real property,
8 (B) any renovation or retrofitting of qualifying commercial real
9 property to reduce energy consumption, [or] (C) installation of a
10 renewable energy system to service qualifying commercial real
11 property, or (D) installation of a solar thermal or geothermal system to
12 service qualifying commercial real property, provided such

13 renovation, retrofit or installation described in subparagraph (B), (C)
14 or (D) of this subdivision is permanently fixed to such qualifying
15 commercial real property;

16 (2) "District heating and cooling system" means a local system
17 consisting of a pipeline or network providing hot water, chilled water
18 or steam from one or more sources to multiple buildings;

19 [(2)] (3) "Qualifying commercial real property" means any
20 commercial or industrial property, regardless of ownership, that meets
21 the qualifications established for the commercial sustainable energy
22 program;

23 [(3)] (4) "Commercial or industrial property" means any real
24 property other than a residential dwelling containing less than five
25 dwelling units;

26 [(4) "Benefitted"] (5) "Benefited property owner" means an owner of
27 qualifying commercial real property who desires to install energy
28 improvements and provides free and willing consent to the benefit
29 assessment against the qualifying commercial real property;

30 [(5)] (6) "Commercial sustainable energy program" means a
31 program that facilitates energy improvements and utilizes the benefit
32 assessments authorized by this section as security for the financing of
33 the energy improvements;

34 [(6)] (7) "Municipality" means a municipality, as defined in section
35 7-369;

36 [(7)] (8) "Benefit assessment" means the assessment authorized by
37 this section;

38 [(8)] (9) "Participating municipality" means a municipality that has
39 entered into a written agreement, as approved by its legislative body,
40 with the authority pursuant to which the municipality has agreed to
41 assess, collect, remit and assign, benefit assessments to the authority in

42 return for energy improvements for benefited property owners within
43 such municipality and costs reasonably incurred in performing such
44 duties; and

45 [(9)] (10) "Authority" means the Clean Energy Finance and
46 Investment Authority.

47 (b) (1) The authority shall establish a commercial sustainable energy
48 program in the state, and in furtherance thereof, is authorized to make
49 appropriations for and issue bonds, notes or other obligations for the
50 purpose of financing, (A) energy improvements; (B) related energy
51 audits; (C) renewable energy system feasibility studies; and (D)
52 verification reports of the installation and effectiveness of such
53 improvements. The bonds, notes or other obligations shall be issued in
54 accordance with legislation authorizing the authority to issue bonds,
55 notes or other obligations generally. Such bonds, notes or other
56 obligations may be secured as to both principal and interest by a
57 pledge of revenues to be derived from the commercial sustainable
58 energy program, including revenues from benefit assessments on
59 qualifying commercial real property, as authorized in this section.

60 (2) When the authority has made appropriations for energy
61 improvements for qualifying commercial real property or other costs
62 of the commercial sustainable energy program, including interest costs
63 and other costs related to the issuance of bonds, notes or other
64 obligations to finance the appropriation, the authority may require the
65 participating municipality in which the qualifying commercial real
66 property is located to levy a benefit assessment against the qualifying
67 commercial real property especially benefited thereby.

68 (3) The authority (A) shall develop program guidelines governing
69 the terms and conditions under which state financing may be made
70 available to the commercial sustainable energy program, including, in
71 consultation with representatives from the banking industry,
72 municipalities and property owners, developing the parameters for
73 consent by existing mortgage holders and may serve as an aggregating

74 entity for the purpose of securing state or private third-party financing
75 for energy improvements pursuant to this section, (B) shall establish
76 the position of commercial sustainable energy program liaison within
77 the authority, (C) shall establish a loan loss reserve or other credit
78 enhancement program for qualifying commercial real property, (D)
79 may use the services of one or more private, public or quasi-public
80 third-party administrators to administer, provide support or obtain
81 financing for the commercial sustainable energy program, and (E) shall
82 adopt standards to ensure that the energy cost savings of the energy
83 improvements over the useful life of such improvements exceed the
84 costs of such improvements.

85 (c) Before establishing a commercial sustainable energy program
86 under this section, the authority shall provide notice to the electric
87 distribution company, as defined in section 16-1, that services the
88 participating municipality.

89 (d) If a [benefitted] benefited property owner requests financing
90 from the authority for energy improvements under this section, the
91 authority shall:

92 (1) Require performance of an energy audit or renewable energy
93 system feasibility analysis on the qualifying commercial real property
94 that assesses the expected energy cost savings of the energy
95 improvements over the useful life of such improvements before
96 approving such financing;

97 (2) If financing is approved, require the participating municipality
98 to levy a benefit assessment on the qualifying commercial real
99 property with the property owner in a principal amount sufficient to
100 pay the costs of the energy improvements and any associated costs the
101 authority determines will benefit the qualifying commercial real
102 property;

103 (3) Impose requirements and criteria to ensure that the proposed
104 energy improvements are consistent with the purpose of the

105 commercial sustainable energy program;

106 (4) Impose requirements and conditions on the financing to ensure
107 timely repayment, including, but not limited to, procedures for placing
108 a lien on a property as security for the repayment of the benefit
109 assessment; and

110 (5) Require that the property owner provide written notice, not less
111 than thirty days prior to the recording of any lien securing a benefit
112 assessment for energy improvements for such property, to any existing
113 mortgage holder of such property, of the property owner's intent to
114 finance such energy improvements pursuant to this section.

115 (e) (1) The authority may enter into a financing agreement with the
116 property owner of qualifying commercial real property. After such
117 agreement is entered into, and upon notice from the authority, the
118 participating municipality shall place a caveat on the land records
119 indicating that a benefit assessment and lien is anticipated upon
120 completion of energy improvements for such property.

121 (2) The authority shall disclose to the property owner the costs and
122 risks associated with participating in the commercial sustainable
123 energy program established by this section, including risks related to
124 the failure of the property owner to pay the benefit assessment. The
125 authority shall disclose to the property owner the effective interest rate
126 of the benefit assessment, including fees charged by the authority to
127 administer the program, and the risks associated with variable interest
128 rate financing. The authority shall notify the property owner that such
129 owner may rescind any financing agreement entered into pursuant to
130 this section not later than three business days after such agreement.

131 (f) The authority shall set a fixed or variable rate of interest for the
132 repayment of the benefit assessment amount at the time the benefit
133 assessment is made. Such interest rate, as may be supplemented with
134 state or federal funding as may become available, shall be sufficient to
135 pay the financing and administrative costs of the commercial

136 sustainable energy program, including delinquencies.

137 (g) Benefit assessments levied pursuant to this section and the
138 interest, fees and any penalties thereon shall constitute a lien against
139 the qualifying commercial real property on which they are made until
140 they are paid. Such lien shall be levied and collected in the same
141 manner as the property taxes of the participating municipality on real
142 property, including, in the event of default or delinquency, with
143 respect to any penalties, fees and remedies and lien priorities. Each
144 such lien may be continued, recorded and released in the manner
145 provided for property tax liens, subject to the consent of existing
146 mortgage holders, and shall take precedence over all other liens or
147 encumbrances except a lien for taxes of the municipality on real
148 property, which lien for taxes shall have priority over such benefit
149 assessment lien.

150 (h) Any participating municipality may assign to the authority any
151 and all liens filed by the tax collector, as provided in the written
152 agreement between the participating municipality and the authority.
153 The authority may sell or assign, for consideration, any and all liens
154 received from the participating municipality. The consideration
155 received by the authority shall be negotiated between the authority
156 and the assignee. The assignee or assignees of such liens shall have and
157 possess the same powers and rights at law or in equity as the authority
158 and the participating municipality and its tax collector would have had
159 if the lien had not been assigned with regard to the precedence and
160 priority of such lien, the accrual of interest and the fees and expenses
161 of collection. The assignee shall have the same rights to enforce such
162 liens as any private party holding a lien on real property, including,
163 but not limited to, foreclosure and a suit on the debt. Costs and
164 reasonable attorneys' fees incurred by the assignee as a result of any
165 foreclosure action or other legal proceeding brought pursuant to this
166 section and directly related to the proceeding shall be taxed in any
167 such proceeding against each person having title to any property
168 subject to the proceedings. Such costs and fees may be collected by the

169 assignee at any time after demand for payment has been made by the
170 assignee."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-40g